

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

USCA Docket Number:

USDC Docket Number : 03-cv-12297

Scott M. Epstein

v.

C. R. Bard, Inc.,

CLERK'S CERTIFICATE

I, Sarah A Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 12/7/05.

In testimony whereof, I hereunto set my hand and affix the seal of this Court on December 21, 2005.

Sarah A. Thornton, Clerk of Court

By: *Jeanette Ramos*
Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled
case is hereby acknowledged this date: 12/21/05.

M. Bunn
Deputy Clerk, US Court of Appeals

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: _____

APPEAL

United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:03-cv-12297-RWZ

Epstein v. C.R.Bard, Inc. et al
Assigned to: Judge Rya W. Zobel
Demand: \$75,000
Cause: 28:1332 Diversity-Fraud

Date Filed: 11/17/2003
Jury Demand: Both
Nature of Suit: 370 Fraud or
Truth-In-Lending
Jurisdiction: Diversity

Plaintiff

Scott M. Epstein

represented by **Gary E. Lambert**
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V.

Defendant

C.R.Bard, Inc.

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Defendant

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Defendant

Crossbow Ventures, Inc. TERMINATED: 10/26/2004

represented by **Michael A. Albert**
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ATTORNEY TO BE NOTICED

Michael N. Rader
(See above for address)
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Samuel D. Levy
Wuersch & Gering LLP
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New York, NY 10005
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
11/17/2003	•1	NOTICE OF REMOVAL by C.R.Bard, Inc., Crossbow Ventures, Inc., Futuremed Interventional, Inc. from Suffolk Superior Court, case number 03-4869. \$ 150, receipt number 51773, filed by C.R.Bard, Inc., Crossbow Ventures, Inc., Futuremed

		Interventional, Inc..(Johnson, Jay) Additional attachment(s) added on 11/21/2003 (Johnson, Jay). (Entered: 11/19/2003)
11/20/2003	②	STATE COURT Record. (Johnson, Jay) (Entered: 11/21/2003)
11/24/2003	③	(Assented to)MOTION for Extension of Time to 12/10/2003 to Answer or Otherwise Defend by Crossbow Ventures, Inc., Futuremed Interventional, Inc..(Albert, Michael) Modified on 11/25/2003 (Johnson, Jay). (Entered: 11/24/2003)
11/24/2003	⑤	(Assented to) MOTION for Extension of Time to 12/10/03 to File Answer by C.R.Bard, Inc..(Johnson, Jay) (Entered: 11/25/2003)
11/25/2003	④	CERTIFICATE OF SERVICE by Crossbow Ventures, Inc., Futuremed Interventional, Inc. <i>Regarding Motion for Extension of Time.</i> (Albert, Michael) (Entered: 11/25/2003)
12/04/2003	•	Judge Rya W. Zobel : ELECTRONIC ORDER entered granting <u>5</u> Motion for Extension of Time to Answer C.R.Bard, Inc.. (Johnson, Jay) (Entered: 12/04/2003)
12/09/2003	⑥	Second MOTION for Extension of Time to 12/29/2003 to Answer or Otherwise Defend by C.R.Bard, Inc., Crossbow Ventures, Inc., Futuremed Interventional, Inc..(Albert, Michael) Modified on 12/10/2003 (Johnson, Jay).(Assented to) (Entered: 12/09/2003)
12/16/2003	⑦	NOTICE of Appearance by Michael N. Rader on behalf of Crossbow Ventures, Inc., Futuremed Interventional, Inc. (Johnson, Jay) (Entered: 12/18/2003)
12/16/2003	⑧	MOTION for Leave to Appear Pro Hac Vice by Samuel D. Levy Filing fee \$ 50, receipt number

		52558. by Crossbow Ventures, Inc., Futuremed Interventional, Inc..(Johnson, Jay) (Entered: 12/18/2003)
12/16/2003	•9	AFFIDAVIT in Support re <u>8</u> MOTION for Leave to Appear Pro Hac Vice by Samuel D. Levy Filing fee \$ 50, receipt number 52558.. (Johnson, Jay) (Entered: 12/18/2003)
12/16/2003	•10	NOTICE of Appearance by Michael A. Albert on behalf of Crossbow Ventures, Inc., Futuremed Interventional, Inc. (Johnson, Jay) (Entered: 12/18/2003)
12/29/2003	•11	MOTION to Dismiss <i>Epstein's Complaint</i> by Futuremed Interventional, Inc..(Albert, Michael) (Entered: 12/29/2003)
12/29/2003	•12	MEMORANDUM OF LAW by Futuremed Interventional, Inc.. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Exhibit D# <u>5</u> Exhibit E) (Albert, Michael) (Entered: 12/29/2003)
12/29/2003	•13	MOTION to Dismiss <i>the Verified Complaint</i> by Crossbow Ventures, Inc..(Albert, Michael) (Entered: 12/29/2003)
12/29/2003	•14	MEMORANDUM OF LAW by Crossbow Ventures, Inc.. (Albert, Michael) (Entered: 12/29/2003)
12/29/2003	•15	AFFIDAVIT of <i>Stephen J. Warner</i> by Crossbow Ventures, Inc.. (Attachments: # <u>1</u> Exhibit 1)(Albert, Michael) (Entered: 12/29/2003)
12/29/2003	•16	MOTION to Dismiss Counts 2-8, and 10 of plaintiffs complaint by C.R.Bard, Inc..(Johnson, Jay) (Entered: 12/31/2003)
12/29/2003	•17	MEMORANDUM in Support re <u>16</u> MOTION to Dismiss Counts 2-8,10 of plaintiffs complaint filed by C.R.Bard, Inc.. (Johnson, Jay) (Entered: 12/31/2003)

01/06/2004	• 18	NOTICE of Appearance by Andrew Good on behalf of C.R.Bard, Inc. (Johnson, Jay) (Entered: 01/08/2004)
01/07/2004	•	Judge Rya W. Zobel : ELECTRONIC ORDER entered granting <u>8</u> Motion for Leave to Appear Pro Hac Vice Added Samuel D. Levy for Crossbow Ventures, Inc. (Johnson, Jay) (Entered: 01/07/2004)
01/07/2004	• 19	Corporate Document disclosure by C.R.Bard, Inc.. (Johnson, Jay) (Entered: 01/08/2004)
01/15/2004	• 20	(Assented to) MOTION for Extension of Time to 2/18/04 to oppose or otherwise respond to the several defendants motions to dismiss and to respond to defendants memorandums of law in support of their motions to dismiss by Scott M. Epstein.(Johnson, Jay) (Entered: 01/21/2004)
01/27/2004	•	Judge Rya W. Zobel : Electronic ORDER entered granting <u>20</u> Motion for Extension of Time to file oppositions by 2/18/04 (Urso, Lisa) (Entered: 01/27/2004)
02/18/2004	• 21	Opposition re <u>16</u> MOTION to Dismiss Counts 2-8 and 10 of Plaintiffs Complaint and request for oral argument filed by Scott M. Epstein. (Johnson, Jay) (Entered: 02/19/2004)
02/18/2004	• 22	Opposition re <u>11</u> MOTION to Dismiss Defendants Futuremed's Motion to Dismiss Plaintiff's Complaint and Request for Oral Argument filed by Scott M. Epstein. (Johnson, Jay) (Johnson, Jay). Modified on 2/19/2004 (Johnson, Jay). (Entered: 02/19/2004)
02/18/2004	• 23	Opposition re <u>13</u> Crossbow's MOTION to Dismiss the Verified Complaint and request for oral argument filed by Scott M. Epstein. Modified on 2/19/2004 (Johnson, Jay). (Entered: 02/19/2004)
02/18/2004	• 24	AFFIDAVIT re <u>21</u> Opposition to Motion, <u>22</u> Opposition to Motion, <u>23</u> Opposition to Motion by

		Scott M. Epstein. (Johnson, Jay) (Entered: 02/19/2004)
02/19/2004	•	Notice of correction to docket made by Court staff. Correction: #22 and 23 corrected because: wrong pleading descriptions (Johnson, Jay) (Entered: 02/19/2004)
03/08/2004	• 25	REPLY to Response to Motion re <u>11</u> MOTION to Dismiss <i>Epstein's Complaint</i> filed by Futuremed Interventional, Inc.. (Rader, Michael) (Entered: 03/08/2004)
03/08/2004	• 26	REPLY to Response to Motion re <u>13</u> MOTION to Dismiss <i>the Verified Complaint</i> filed by Crossbow Ventures, Inc.. (Rader, Michael) (Entered: 03/08/2004)
03/11/2004	• 27	REPLY to Response to Motion re <u>16</u> MOTION to Dismiss <i>Counts II, III, IV, V, VI, VII, VIII and X of Plaintiff's Complaint</i> filed by C.R.Bard, Inc.. (Good, Andrew) (Entered: 03/11/2004)
03/15/2004	•	NOTICE of Hearing on Motion <u>11</u> MOTION to Dismiss, <u>13</u> MOTION to Dismiss the Verified Complaint, <u>16</u> MOTION to Dismiss: Motion Hearing set for 3/23/2004 02:00 PM in Courtroom 12 before Judge Rya W. Zobel. (Urso, Lisa) (Entered: 03/15/2004)
03/23/2004	•	Electronic Clerk's Notes for proceedings held before Judge Rya W. Zobel : Motion Hearing held on 3/23/2004 re <u>11</u> MOTION to Dismiss <i>Epstein's Complaint</i> filed by Futuremed Interventional, Inc., <u>13</u> MOTION to Dismiss <i>the Verified Complaint</i> filed by Crossbow Ventures, Inc., <u>16</u> MOTION to Dismiss filed by C.R.Bard, Inc.. Judge hears counsel and takes matter under advisement; (Court Reporter Romanow.) (Urso, Lisa) (Entered: 03/24/2004)
07/19/2004	• 28	Judge Rya W. Zobel : Memorandum of Decision

		entered granting <u>11</u> Motion to Dismiss, granting <u>13</u> Motion to Dismiss, granting <u>16</u> Motion to Dismiss. Further scheduling conference set for 8/18/04 at 2:30 p.m. (Urso, Lisa) (Entered: 07/20/2004)
08/04/2004	•	Motions moot: <u>3</u> Joint MOTION for Extension of Time to 12/10/2003 to Answer or Otherwise Defend filed by Futuremed Interventional, Inc., Crossbow Ventures, Inc., <u>6</u> Second MOTION for Extension of Time to 12/29/2003 to Answer or Otherwise Defend (<i>Assented-to</i>) filed by C.R.Bard, Inc., Futuremed Interventional, Inc., Crossbow Ventures, Inc.. (Urso, Lisa) (Entered: 08/04/2004)
08/11/2004	• <u>31</u>	NOTICE of Appearance by Patrick D. Archibald on behalf of Scott M. Epstein (Johnson, Jay) (Entered: 08/13/2004)
08/11/2004	• <u>32</u>	PARTIALLY ASSENTED TO MOTION to Stay Further Proceedings by Scott M. Epstein.(Johnson, Jay) (Entered: 08/13/2004)
08/11/2004	• <u>33</u>	MEMORANDUM in Support re <u>32</u> Partially Assented to MOTION to Stay further proceedings filed by Scott M. Epstein. (Johnson, Jay) (Entered: 08/13/2004)
08/12/2004	• <u>29</u>	MOTION for Entry of Judgment under Rule 54(b) by Crossbow Ventures, Inc., Futuremed Interventional, Inc..(Albert, Michael) (Entered: 08/12/2004)
08/12/2004	• <u>30</u>	MEMORANDUM in Support re <u>29</u> MOTION for Entry of Judgment under Rule 54(b) <i>for Defendants Futuremed and Crossbow</i> filed by Crossbow Ventures, Inc., Futuremed Interventional, Inc.. (Albert, Michael) (Entered: 08/12/2004)
08/18/2004	•	electreonic Clerk's Notes for proceedings held before Judge Rya W. Zobel : Scheduling Conference held on 8/18/2004. Responses to motions will be filed; Judge will determine if a hearing is necessary. (Urso, Lisa) (Entered: 08/18/2004)

08/19/2004	•34	NOTICE of Appearance by Matthew P. Zisow on behalf of C.R.Bard, Inc. (Zisow, Matthew) (Entered: 08/19/2004)
08/25/2004	•35	Opposition re <u>32</u> MOTION to Stay filed by Crossbow Ventures, Inc., Futuremed Interventional, Inc.. (Albert, Michael) (Entered: 08/25/2004)
08/25/2004	•36	Opposition re <u>32</u> MOTION to Stay filed by C.R.Bard, Inc.. (Attachments: # <u>1</u> # <u>2</u> # <u>3</u>)(Zisow, Matthew) (Entered: 08/25/2004)
08/25/2004	•37	MOTION for Judgment on the Pleadings by C.R.Bard, Inc..(Zisow, Matthew) (Entered: 08/25/2004)
08/25/2004	•38	MEMORANDUM in Support re <u>37</u> MOTION for Judgment on the Pleadings filed by C.R.Bard, Inc.. (Zisow, Matthew) (Entered: 08/25/2004)
08/25/2004	•39	ANSWER to Complaint with Jury Demand by C.R.Bard, Inc..(Zisow, Matthew) (Entered: 08/25/2004)
08/26/2004	•40	Opposition re <u>29</u> MOTION for Entry of Judgment under Rule 54(b) filed by Scott M. Epstein. (Johnson, Jay) (Entered: 08/31/2004)
09/08/2004	•41	MOTION for Leave to File a Reply to Bards Opposition to Plaintiffs Motion for Stay by Scott M. Epstein.(Johnson, Jay) (Entered: 09/09/2004)
09/09/2004	•43	MOTION for Extension of Time to File Response/Reply to Bards Motion for Judgment on the pleadings by Scott M. Epstein.(Johnson, Jay) (Entered: 09/14/2004)
09/10/2004	•42	REPLY to Response to Motion re <u>29</u> MOTION for Entry of Judgment under Rule 54(b) filed by Crossbow Ventures, Inc., Futuremed Interventional, Inc.. (Albert, Michael) (Entered: 09/10/2004)
09/14/2004	•44	RESPONSE to Motion re <u>41</u> MOTION for Leave to

		File <i>REPLY TO BARD'S OPPOSITION TO PLAINTIFF'S MOTION TO STAY</i> filed by C.R.Bard, Inc.. (Zisow, Matthew) (Entered: 09/14/2004)
09/17/2004	•45	AFFIDAVIT of George Macinnis in Support re <u>32</u> MOTION to Stay. (Johnson, Jay) (Entered: 09/20/2004)
09/17/2004	•46	AFFIDAVIT of Patrick D. Archibald in Support re <u>32</u> MOTION to Stay. (Johnson, Jay) (Entered: 09/20/2004)
10/26/2004	•	Judge Rya W. Zobel : endorsed ORDER entered granting <u>29</u> Motion for Entry of Judgment under Rule 54(b). Judgment may be entered dismissing the complaint against defendants Futuremed and Crossbow. (Urso, Lisa) (Entered: 10/26/2004)
10/26/2004	•47	Judge Rya W. Zobel : ORDER entered JUDGMENT entered dismissing the complaint against defendants Futuremed and Crossbow.(Urso, Lisa) (Entered: 10/26/2004)
10/27/2004	•	Judge Rya W. Zobel : endorsed ORDER entered granting <u>32</u> Motion to Stay. Allowed to the extent that the proceedings against Bard are stayed until January 31, 2005. Two counsel have filed appearances and Mr. Archibald shall by 1/31/05 report the status of Mr. Lambert's service and the case. (Urso, Lisa) (Entered: 10/27/2004)
11/02/2004	•	Judge Rya W. Zobel : electronic ORDER entered granting <u>41</u> Motion for Leave to File, granting <u>43</u> Motion for Extension of Time to File Response/Reply (Urso, Lisa) (Entered: 11/02/2004)
01/20/2005	•	Motions terminated: <u>37</u> MOTION for Judgment on the Pleadings filed by C.R.Bard, Inc.,. Case is stayed until 1/31/05. Counsel to let court know what the status is by letter after that date. (Urso, Lisa) (Entered: 01/20/2005)

01/31/2005	•48	STATUS REPORT by Scott M. Epstein. (Johnson, Jay) (Entered: 02/02/2005)
03/17/2005	•49	MOTION for Judgment on the Pleadings by C.R.Bard, Inc..(Zisow, Matthew) (Entered: 03/17/2005)
03/17/2005	•50	MEMORANDUM in Support re <u>49</u> MOTION for Judgment on the Pleadings filed by C.R.Bard, Inc.. (Zisow, Matthew) (Entered: 03/17/2005)
03/31/2005	•51	MEMORANDUM in Opposition re <u>49</u> MOTION for Judgment on the Pleadings filed by Scott M. Epstein. (Johnson, Jay) (Entered: 03/31/2005)
11/08/2005	•52	Judge Rya W. Zobel : Memorandum of Decision ORDER entered granting <u>49</u> Motion for Judgment on the Pleadings (Urso, Lisa) (Entered: 11/08/2005)
11/08/2005	•53	Judge Rya W. Zobel : Judgment ORDER entered. JUDGMENT entered dismissing the complaint. (Urso, Lisa) (Entered: 11/08/2005)
12/07/2005	•54	NOTICE OF APPEAL as to <u>52</u> Order on Motion for Judgment on the Pleadings, <u>53</u> Judgment by Scott M. Epstein. § 255 NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerks/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 12/27/2005. (Johnson, Jay) (Entered: 12/08/2005)